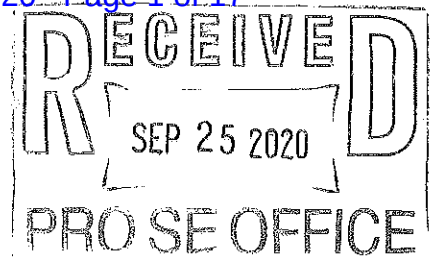


United States District Court
Southern District of New York



Michael Ruiz,
Plaintiff,

- Against -

Link, P. - Correctional officer at
Green Haven correctional facility ;
Reyes, S. - Correctional officer at
Green Haven correctional facility ;
Patrick Squire - correctional officer at
Green Haven correctional facility ;
Michael Blot - correctional Sergeant at
Green Haven correctional facility ;
Deborah MacDonald - Registered Nurse at
Green Haven correctional facility ;
John Doe #1 - Correctional officer at
Green Haven correctional facility ;
John Doe #2 - correctional officer at
Green Haven correctional facility ;
John Doe #3 - Correctional officer at
Green Haven correctional facility ,

Defendants.

Amended
Civil Rights
Complaint
under
42 U.S.C. §1983

Jury Trial
Demanded

Index No. 20-cv-0235
(CS)

Jurisdiction And Venue

This court has jurisdiction pursuant to the Civil Rights Act 1871: 42 U.S.C. §1983, 28 U.S.C. §1331, 1343 (a)(3); Venue is vested to this court pursuant to 28 U.S.C. §1391 (a)(i)(2) and (b)(2); for plaintiff's Rights [Eighth Amendment]: protected by the United States Constitution, being Violated

Exhaustion of Administrative Remedies

1. Pursuant to the Prison Litigation Reform Act (P.L.R.A.), 42 U.S.C. §1997 e (a), Michael Ruiz (plaintiff) exhausted his administrative remedies concerning each claim raised herein, as it is set forth inside the complaint.
2. On April 9th, 2019 plaintiff filed a "Inmate Grievance complaint" (Grievance No. 60861-19) concerning each claim raised herein, as it is set forth inside the complaint.
3. On July 26th, 2019 plaintiff's grievance was denied by Superintendent Michael Capra, and Q. Quick - I.G.P. Supervisor, as it is written on a document printed out by Sing Sing Correctional Facility.
4. Plaintiff did not receive grievance response until October 9th, 2019 at Elmira Correctional Facility.
5. Plaintiff responded by appealing such decision to C.O.R.C. on October 10th, 2019.

Parties

6. Michael Ruiz (Herein-after plaintiff) at all times relevant to the complaint, was in custody of New York State Department of corrections and community supervision (D.O.C.C.S.), incarcerated at GreenHaven correctional facility (GreenHaven), transferred to Sing Sing correctional facility.
7. Link, P. (Link) at all times relevant to the complaint, was a correctional officer at GreenHaven, employed by D.O.C.C.S..
8. Reyes, J. (Reyes) at all times relevant to the complaint, was a correctional officer at GreenHaven, employed by D.O.C.C.S..
9. Patrick Squire (Squire) at all times relevant to the complaint, was a correctional officer at GreenHaven, employed by D.O.C.C.S..
10. Michael Blot (Blot) at all times relevant to the complaint, was a correctional sergeant at GreenHaven, employed by D.O.C.C.S..
11. Deborah MacDonald (MacDonald) at all times relevant to the complaint, was a registered nurse at GreenHaven, employed and/or contracted by D.O.C.C.S. or Department of health - professions, obliged to uphold authorities of New York statutes, Dept. of health principles and guidelines.

12. John Doe #1 (Doe #1) at all times relevant to the complaint, was a correctional officer who worked the 3:00 pm - 11:00 pm shift on G & H yard, corridor, and/or Block at Green Haven on April 6th, 2019, employed by D.O.C.C.S..
13. John Doe #2 (Doe #2) at all times relevant to the complaint, was a correctional officer who worked the 3:00 pm - 11:00 pm shift on G & H yard, corridor, and/or Block at Green Haven on April 6th, 2019, employed by D.O.C.C.S..
14. John Doe #3 (Doe #3) at all times relevant to the complaint, was a correctional officer who worked the 3:00 pm - 11:00 pm shift on G & H yard, corridor, and/or Block at Green Haven on April 6th, 2019, employed by D.O.C.C.S..
15. During all times mentioned in the complaint, the defendants were acting under the color of laws of the United States Constitution, New York State Constitution, laws, statutes, Rules, customs, collective bargaining agreement, and in their professional judgement, as well as their official capacities. Defendants are all being sued in their individual capacities.

FACTS

16. On April 6th, 2019 plaintiff was housed in G-Block; 3 company; 7 cell, at Green Haven, when keeplock recreation was in process at approximately 3:00 pm

17. Plaintiff entered G-Block recreation (yard) and began to exercise.
18. Plaintiff observed approximately twenty inmates in the yard.
19. At approximately 3:15 pm plaintiff witnessed an altercation break out between an inmate and a correctional officer (C.O.) The C.O. attacked the inmate by striking the inmate on the right side of his face.
20. Plaintiff observed the inmate on the ground being kicked, punched, and struck by three C.O.' with batons. Several more C.O.' joined in and began to attack the inmate as well. Plaintiff feared for the inmates life as inmate appeared to be unconscious.
21. Plaintiff began to yell at the C.O.' striking the "inmate" stop hitting him, he is not resisting, stop your going to kill him!" Plaintiff witnessed C.O.' continue thier attack. Plaintiff then became aware that several C.O.' were rapidly approaching him.
22. As plaintiff started to plead, "Im sorry for yelling, dont hit me.", to no-avail. Squire sprayed plaintiff with multiple bursts of o.c - pepper spray to his face and eyes.
23. Plaintiff grabbed his face due to the excruciating pain and burning sensation, screaming "ahh please stop!". Squire picked plaintiff off the ground and slammed him on the concrete ground in a rapid succession

24. Reyes joined Squire by grabbing plaintiff's left leg dragging him on the ground. Reyes then kicked plaintiff in his ribs area.

25. Link arrived and joined Squire and Reyes, forcing plaintiff's mouth open and forced the canister containing O.C. pepper spray inside of plaintiff's mouth and deployed multiple bursts of the chemical agent in his mouth.

26. Link then grabbed plaintiff's right ankle and twisted it in a snapping motion. Link then stomped down on plaintiff's right ankle.

27. Squire then unholstered his baton and delivered several strikes to plaintiff's ribs, upper back, back right shoulder, and legs.

28. Reyes then punched plaintiff in his left eye. Reyes kicked plaintiff one time in the middle area of his forehead. Plaintiff was semi-conscious at this time.

29. Link then applied mechanical restraints (hand-cuffs) to plaintiff

30. Plaintiff was lifted off the floor and rushed inside of Green Haven and out of the yard, by Squire and Link; holding plaintiff up by each arm.

31. Once inside of Green Haven Corridor, Blot ordered Squire and Link to "Get that fucking Scumbag on the ground!"

32. Squire and Link forced plaintiff to the ground. Blot then stomped plaintiff's buttocks several times.

33. Doe #1 arrived and joined Blot, Kicking plaintiff in his right side.

34. Doe #2 rapidly approached stating "this the little fucker, watch out" and punched the plaintiff in his nose and in his jaw.

35. Doe #3 stepped in and punched plaintiff in his stomach several times. Plaintiff pleaded for [defendants] to "stop, please, I cant take it no more."

36. Plaintiff was then struck multiple times with blows to the ribs, back, and stomach. Plaintiff was punched in the head and went unconscious.

37. Plaintiff regained consciousness at unknown time in infirmary room floor.

Medical Deprivations

38. MacDonald, a registered nurse, entered the infirmary room where plaintiff was located on the floor in handcuffs. MacDonald questioned the plaintiff by stating "you must of fucked up bad, what did you do?" plaintiff informed MacDonald that he was attacked by correctional officers and did nothing wrong.

39. Plaintiff then pleaded to MacDonald to receive his Albuteral (asthma pump) because he was having serious complications breathing. MacDonald refused to provide such medically proscribed medication, stating "you don't need that, you'll be just fine." Plaintiff expressed to MacDonald that he indeed was not fine and needed medical treatment and that he suffers chronic asthma, to no avail.

40. MacDonald observed and was aware of plaintiff injuries but did not treat, care, or give attention to such injuries. As plaintiff requested MacDonald for pain medication to ease the pain, he was denied. Plaintiff requested for decontamination of the chemical agents (O.C. pepper spray) deployed to plaintiff face, eyes, and mouth, MacDonald refused to do such, stating "I'm not doing it, ask them." pointing at C.O. [Defendants]. Plaintiff asked Link to assist him in receiving medical care by ordering MacDonald to decontaminate him, to no avail.

41. MacDonald did not disinfect plaintiff's lacerations, provide asthma pump, provide pain medications, or decontaminate plaintiff. MacDonald intentionally deprived plaintiff of such medical care and fabricated plaintiff's injury report and minimized the actual extent of injuries.

42. MacDonald did not properly examine plaintiff, did not schedule him to be seen by his health care provider/doctor, did not order for a production of X-Rays to be completed for body parts injured. MacDonald did not take vitals of plaintiff, run any blood tests, or any tests for that matter. MacDonald refused to attend to plaintiff's injuries.

43. Blot ordered Link and Reyes to strip plaintiff of his clothes "down to his boxers", for pictures. Blot threatened plaintiff stating "stop complaining or ima give you something to complain about". A C.O. came in and took pictures of plaintiff as he did his best to stand in such an injured state. Pictures were completed.

44. Blot ordered Squire, Link, and Reyes to get plaintiff dressed and to "fix him up a bit so he doesn't even think about talking." As Blot left the infirmary room, Squire slammed plaintiff against the wall. Link kicked plaintiff in his right lower leg towards plaintiff's already injured ankle, intentionally injuring it more. Reyes began to punch plaintiff in his ribs, multiple times.

45. Blot re-entered the room in a rush, ordering Squire, Link, and Reyes to "relax the superintendent is on his way down here". All force ceased at this time.

46. Plaintiff was ordered to put on all his clothing, which plaintiff complied as best as he could. Link and Squire applied handcuffs, leg iron-shackles, waist chain, and locks on plaintiff and ordered plaintiff to "face the wall and don't move."

47. Plaintiff was forced to stand and face the wall from the time all force ceased to approximately 11:45 pm without medical treatment, without decontamination of O.C. pepper spray, without being provided the entitled meal (dinner), and without being able to use the toilet.

48. At 11:50 pm plaintiff was re-stripped of his clothes, thoroughly searched, and handcuffed with, waist chain, leg iron - shackles, and locks, by C.O. from another D.O.C.C.S. facility: Sing Sing Correctional facility. Plaintiff was put in a van and transferred to a Special Housing Unit (SHU) in Sing Sing Correctional facility; arriving at approximately 1:00 am.

49. ON April 8th, 2019 at approximately 10:00 am Sing Sing Correctional / medical staff observed plaintiff's condition and rushed him to Mount Vernon Hospital / medical center.

Pain and Suffering

50. All defendants were conscious and acting in a sufficiently culpable state of mind when forcing plaintiff to endure such torture. All said defendants intentionally caused such suffering conditions to plaintiff.

51. Plaintiff suffered a fractured right elbow - bruised, swollen, laceration, and permanent scar; sprained right ankle - swollen, bruised, continuous pain upon motion of movement; injured right ribs - extreme pain upon breathing deeply, sneezing, coughing, or talking too loud; injured left ribs - extreme pain upon breathing deeply, sneezing, coughing, or talking too loud; injured left eye - bruised, swollen, consistent blurry visions at times; a laceration (small) to the middle forehead - bump, swollen, bruised, sharp headaches; injured right leg - swollen, bruising; injured left knee - abrasion, scoring, bruised; Lower back pain; upper right shoulder pain + abrasion, bruised;

Injured Nose - bruised, Swollen; pain in lower left jaw; and pain (extreme) upon any movement. As well as Chronic Asthma being triggered for a week consecutively due to lack of decontamination in a timely fashion.

Mental and Emotional Anguish and Distress

52. Due to MacDonalds and defendants refusal to provide plaintiff Medical care, as well as all said defendants that attacked plaintiff, caused him to experience fear, terror, helplessness, excruciating pain, extreme paranoia, anxiety, depression, and thoughts of suicide.

53. Plaintiff was in extreme fear that defendants will return to continue their attack, that he attempted to commit suicide on four different occasions from June-2019 - August 1st, 2019 at Sing Sing Correctional facility. Plaintiff was close to death on each occasion and was rushed to Westchester Medical Center, Via: Ambulance, to be treated.

54. Plaintiff continued to suffer Mental and Emotional trauma for fabricated inmate Misbehavior report being filed against plaintiff. Defendants provided false information and forged documents at plaintiff's disciplinary tier III proceeding, resulting in plaintiff receiving a sanction / penalty imposed of two hundred - Ninety - Nine (299) days in SHU.

Witnesses

■ 55. Witnesses to these events are as follows:

Espada, Joseph (Espada) 17A4788; Jewel 16B1233;
 Pugh, Patrick (Pugh) 12A5664; Dodson 14B0182; and all inmates
 who were present, located in G & H yard at Green Haven between
 3:00pm - [Approximately] - 3:45pm.

Causes of Action

First Cause

Defendants; Link, Reyes, Squire, Blot, Doe #1, Doe #2, and Doe #3 'physical, excessive, and unnecessary force used to maliciously and sadistically harm plaintiff; to cause chronic pain; endure such torture; for the very purpose of causing harm; while acting in a sufficiently culpable state of mind; Without provocation, constituted the act of cruel and unusual punishment; in Violation of the Eighth Amendment of the United States Constitution.

Second Cause

Defendant MacDonald deprived plaintiff of medical care and treatment. MacDonald filed inadequate, fabricated injury reports, [medical Records], and was deliberately indifferent to plaintiff serious medical needs; inflicting continuous pain throughout a prolonged period of time; intentionally acting to punish plaintiff, constituted cruel and unusual punishment; in violation of the Eighth Amendment of the United States Constitution.

Third Cause

Defendant MacDonald's failure to afford plaintiff asthma pump, pain medications, proper cleaning of lacerations, decontamination of chemical agents deployed on plaintiff, and the failure, even after plaintiff's plea for medical care/treatment, to properly examine, diagnose, or treat plaintiff of his injuries constituted cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution.

Requested Relief

Plaintiff's Eighth Amendment, protected by the United States Constitution, was violated by all said defendants here in and therefore is entitled relief. Plaintiff asks the United States District Court of the Southern District of New York, respectfully, to grant plaintiff the following:

- a) Issue a declaratory judgment stating:
 - 1) The defendants' actions, omissions, policies, and practices, as stated, violated laws outlined in the Causes of Action, and deprived plaintiff of his rights by harming him in his person.
- b) Issue injunctive relief ordering the defendants:
 - 1) Refrain from further retaliation against plaintiff or any inmates that provide plaintiff affidavits or testimony on his behalf in this matter.

1. Compensatory Damages: \$1,000,000.00
2. Punitive Damages: \$1,500,000.00

d) Appointment of counsel to represent the plaintiff in this action and/or order defendants to pay the reasonable attorney fees.

e) Grant such and further relief as this court deems just and proper.

I, Michael Ruiz, declare under the penalty punishable by perjury, pursuant to 28 U.S.C. §1746, that I have read and certify to the best of my knowledge, information, and belief that this complaint is facts and I personally know that they are true. I further affirm under the penalty of perjury that I have not filed any state or federal actions with the above causes of actions.

STATE OF NEW YORK } ss;
COUNTY OF CHEMUNG }

Sworn to before me this

15TH day of September 2020

Elyse Thiel
Notary public

ELIJAH NICHOLS LTD. #001NIG6005359
NOTARY PUBLIC, STATE OF NEW YORK
Qualified in Chautauq County
Commission expires on March 09, 2024

Truly x ~~Michael Ruiz~~
Michael Ruiz

Dated : September 15th, 2020

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF CHEMUNG)

I, Michael Ruiz, being duly sworn, deposes and says that:

1. I am a party to this action, 18 years or older, and an inmate at Elmira Correctional Facility, P.O. Box 500, Elmira, New York.

2. On the 20th day of September, 2020, I served the following described paper(s): Amended Civil Rights Complaint §1983 by mailing the paper(s) to the person at the address designated by him or her for that purpose by depositing the same in a first class, postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the above-mentioned facility for the United States Postal Office within the State of New York. The name of the person or names of the persons served and the address or addresses at which service was made are as follows:

clerk of court
pro-se office
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Room 230
New York, New York 10007

Jennifer Gashi
Assistant Attorney General
44 South Broadway
White Plains, NY 10601

Pro-se Intake Unit
500 Pearl Street, Room 200
New York, NY 10007

Dated: September 20th, 2020
Chemung County, New York

Respectfully submitted,

Michael Ruiz

Sworn to Before me this 20th
day of SEPTEMBER, 2020.

Elijah Tull
NOTARY PUBLIC

ELIJAH NICHOLS LD.#01N16405359
NOTARY PUBLIC, STATE OF NEW YORK
Qualified in Chemung County
Commission expires on March 09, 2021

Michael Ruiz #15B0450
Elmira Correctional Facility
P.O. Box 500
Elmira, New York 14902

To: J. Michael McMahon (clerk of court)
pro-se office
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 230
New York, New York 10007

Dear Mr. McMahon,

Enclosed is a Amended complaint under
42 U.S.C. §1983; Index No. 20-cv-0235 (CS). Will you
please file and process this document accordingly and
acknowledge receipt of said Amended complaint at your
earliest convenience. The statute of limitation on this
matter expires within 14 days. Thank you.

Affidavit of Service

I, Michael Ruiz #15B0450, hereby swears under the penalty of perjury that
on September 20th, 2020 I served the Amended complaint upon the
court clerk, by placing it in a properly sealed envelope delivered into the
hands of a sworn in correctional officer at Elmira Correctional Facility at
the above address, to be mailed, via: U.S. Postal Service.

Respectfully submit
x Michael Ruiz

09/23/2020
FIRST CLASS
\$001.80
ZIP 14901
041L1251115



CORRECTIONAL
FACILITY

Correctional Facility

J. Michael McMahon (clerk of court)

pro-se office

United States District court
Southern District of New York

Daniel Patrick Moynihan United States Courthouse

500 Pearl Street, Room 230

New York, New York 10007

RECEIVED
SEP 25 2020
PRO SE OFFICE

500

Legal Mail

P.O. BOX 500
ELMIRA, NEW YORK 14902-0500